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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
07/716,004	06/17/91	HOEKMAN	E 47241USA1A

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EXAMINER
LEFKOWITZ, E

ART UNIT	PAPER NUMBER
2617	7

DATE MAILED: 03/31/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS.

☐ This application has been examined ☒ Responsive to communication filed on 1-11-93 This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-13 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-13 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

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1. Claims 1-4 and 9 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, the claim language "vehicle into and exit of a vehicle" does not make coherent sense.

As to claim 9, the preamble does not make coherent sense. For example, "a vehicle detector which inductive sensor changes inductance".

Claims 2-4 are rejected as being dependent upon a rejected claim.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Koerner et al. ('339). Koerner et al. is applied for the same reasons as stated in the last office action.

3. Claims 1-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by GB 2,066,539 (Alexander et al.).

Alexander et al. disclosed a vehicle detector in which

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vehicles are detected by an inductive sensor forming part of an oscillator, and a change in the period of an oscillator signal is indicative of the presence of a vehicle in a detected area, a method comprising monitoring the oscillator signal period, detecting the entry and exiting of a vehicle from a detected area, calculating the time after exiting the area based upon the vehicle speed, producing a sample measurement, comparing the measurement with a reference value, and adjusting the reference value based on the comparison (note Figures 1-3 and cols.2-4).

As to claims 2-13, since the overall structure, which includes the features of the claimed invention, has already been shown above, the remaining claims are rejected for the same reasons shown by Alexander et al. (note Figures 1-3 and its accompanying text).

4. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention

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were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 5 is rejected under 35 U.S.C. § 103 as being unpatentable over Koerner et al. ('339). Koerner et al. is applied for the same reasons as stated in the last office action.

5. Applicant's arguments with respect to claims 1-13 have been considered but are deemed to be moot in view of the new grounds of rejection.

As for the arguments with respect to claims 1 and 5, Koerner et al. does disclose that the time after exiting be determined and a measurement be made at that time to determine whether to modify the restored reference value (note cols.7 and 14). Also, claim 5 is not dependent on claim 1, and remains rejected for the same reasons as stated in the last office action.

6. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE

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ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Lefkowitz whose telephone number is (703) 305-4816.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4750.



Edward Lefkowitz
March 26, 1993



DONNIE L. CROSLAND
PRIMARY EXAMINER
GROUP 2600